IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

Mat.Appeal.No. 308 of 2006()

OP.161/2005 of FAMILY COURT, KASARAGOD
.....

PETITIONER: APPELLANT/RESPONDENT:

PATLATH KUNHABDULLA, AGED 62 YEARS,
S/O. JAINABI UMMA, RESIDING AT BEENACHERI,
AJANUR VILLAGE, HOSDURG TALUK.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS: PETITIONERS:
----

1. THALAYILLATH AYISSABI, AGED 54 YEARS,
D/O. BEEPATHUMMA, RESIDING AT QUARTERS NEAR
TO BSNL CENTRE, BEENACHERI, AJANUR VILLAGE,
HOSDURG TALUK, P.O. AJANUR.

2. ZEENATH C.H., AGED 18 YEARS,
D/O. AYISSABI, RESIDING AT QUARTERS NEAR TO
BSNL CENTRE, BEENACHERI, AJANUR VILLAGE,
HOSDURG TALUK, P.O. AJANUR.

BY ADV. SRI.M.SASINDRAN

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & A.K.BASHEER J.J

Mat.Appeal No. 308 OF 2006

Dated this the 11th day of January 2007

ORDER

Kurian Jospeh..J

This appeal is against judgment dated 17-06-2006 in O.P No.161/2005 at the instance of the respondent therein. The petitioners before the Family Court are the respondents herein. The first respondent herein is the wife of the appellant and the second respondent is the daughter in the first respondent. The above petition was filed for realizing past maintenance to the tune of Rs.80,000/-. It is seen from the facts that the appellant has 8 children in the first respondent. Maintenance is claimed only by the wife and the minor daughter of the appellant.

2. Though various grounds are taken in the appeal memorandum and the learned counsel appearing on both sides addressed several arguments, in the nature of the view we propose to take in the case, it may not be necessary to refer to the same. It is clear from the proceedings that the appellant had been given sufficient opportunity. and owing to his lack of diligence and earnestness only, he had to be set

ex-parte by the Family Court. Be that as it may, taking note of the fact that other litigations are also pending between the parties before the Family Court, in the matter of partition also, we are of the view that it is in the interests of justice that the appellant is given one more opportunity to contest the case on merits , on terms. Accordingly we set aside the judgment dated 17-06-2006 in O.P No.161/2005. The appellant shall pay a total amount of Rs.10,000/- by way of costs to the respondents within a period of two weeks from today. The Family Court will dispose of the original petition within a period of four months from the date of receipt of a copy of this judgment. If the amount mentioned above is not paid, the judgment in O.P No.161/2005 on the file of the Family Court Kasargode will survive

KURIAN JOSEPH,JUDGE

A.K.BASHEER ,JUDGE

es